

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

MEXICAN AMERICAN LEGISLATIVE  
CAUCUS, TEXAS HOUSE OF  
REPRESENTATIVES,

Plaintiffs

V.

STATE OF TEXAS, GREG ABBOTT,  
GOVERNOR OF THE  
STATE OF TEXAS, in his official capacity,  
and JANE NELSON,  
SECRETARY OF STATE OF TEXAS, in her  
official capacity

## Defendants

Civil Action

Case No. 21-cv-259-DCG-JES-JVB

**PLAINTIFF MALC'S MOTION FOR LEAVE  
TO AMEND COMPLAINT**

TO THE HONORABLE COURT:

Plaintiff Mexican American Legislative Caucus (“MALC”) requests leave to file a Third Amended Complaint. The Court has previously indicated that all amended pleadings should be filed on or before March 20, 2025 and, accordingly, MALC submits this motion for entry of an order permitting the filing of a Third Amended Complaint.

The Court's current Scheduling Order requires that all motions for leave to amend and to shall be filed on or before March 20, 2025. MALC timely files this motion for leave to amend its Second Amended Complaint for three primary reasons: (1) the proposed Third Amended Complaint removes certain claims and narrows the issues to be presented for trial; (2) provides additional identifying information and clarifying information regarding MALC members; and (3) pleads clearly facts that enable the claims to survive any alleged mootness challenge based on the

2023 Texas Legislature's re-adoption of the Texas House District and Congressional District Plans.

Plaintiff have conferred with opposing counsel and they are opposed insofar as they believe that amendments should be closed, but understand that the Court had indicated a willingness to permit the amendments at the status conference held in El Paso on March 5, 2025.

A copy of the proposed Third Amended Complaint is attached as Exhibit A. The request to amend is made not for purposes of delay, but so that justice may be done.

### **AUTHORITY**

Pursuant to FED. R. CIV. P. 15 this Court may permit an amendment to a pleading when the opposing party consents or the Court grants leave. Fed. R. Civ. P. 15(a)(2). Plaintiff believes an amended pleading will help clarify the issues and is appropriate given the issues raised in Defendants' last filed motion to dismiss. To the extent the amended pleading removes claims from the suit, the amendment should be treated as a voluntary dismissal of claims pursuant to Federal Rule of Civil Procedure 41(a)(2) and the Plaintiff requests authority under both Rule 15 and 41 to amend and voluntarily dismiss certain claims.

Because the court "should freely give leave when justice requires," Plaintiff requests the Court grant leave to file an Amended Complaint. Fed. R. Civ. P. 15(a)(2); *see Foman v. Davis*, 371 U.S. 178, 182 (1962). "The policy of the federal rules is to permit liberal amendment to facilitate determination of claims on the merits and to prevent litigation from being a technical exercise in the fine points of pleading." *Dussouy v. Gulf Coast Inv. Corp.*, 660 F.2d 594, 598 (5<sup>th</sup> Cir. 1981). Here, Plaintiff's amendment will progress the litigation towards trial and further clarify the issues for the parties and the Court. There is no basis to deny the requested amendments and the request for leave is timely under the Court's Scheduling Order. Finally, Defendants will suffer

no prejudice from the proposed amendments.

**PRAYER**

For the foregoing reasons, Plaintiff asks this Court to grant his Motion for Leave to Amend and permit the filing of the Third Amended complaint.

DATED: March 20, 2025

Respectfully submitted,

SOMMERMAN, MCCAFFITY,  
QUESADA & GEISLER, LLP

*/s/ Sean J. McCaffity*

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*ATTORNEYS FOR PLAINTIFF*

**CERTIFICATE OF SERVICE**

I hereby certify this 20th day of March, 2025 that a copy of the foregoing document was filed electronically and served via ECF notifications to all counsel of record. Therefore, this document was served on all counsel via electronic service.

*/s/ Sean J. McCaffity*

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Sean J. McCaffity

**CERTIFICATE OF CONFERENCE**

On March 19, 2025, the undersigned counsel conferred with counsel for the Defendants concerning this Motion. The motion is opposed as described in the body of this motion.

*/s/ Sean J. McCaffity*

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Sean J. McCaffity